

## REMARKS/ARGUMENTS

In the Final Office Action of July 21, 2009, claims 1-12 are rejected. In response, Applicants propose amending claims 1 and 5 and canceling claim 4. Applicants respectfully request that the amendments be entered to put the claims in condition for allowance or to put the claims in better condition for appeal. Applicants hereby request reconsideration of the application in view of the proposed amendments and the below-provided remarks.

### Claim Rejections under 35 U.S.C. 102 and 35 U.S.C. 103

Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Pellerin et al. (WO 02/075781 A2, hereinafter “Pellerin”). Claim 5 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pellerin. Claims 6-8 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pellerin in view of Krivokapic (U.S. Pat. No. 6,888,198). Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pellerin in view of Yang et al. (U.S. Pat. Pub. No. 2003/0162359, hereinafter “Yang”). Claim 11 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pellerin in view of En et al. (U.S. Pat. No. 6,441,433, hereinafter “En”). However, Applicants respectfully submit that the pending claims are patentable in view of the cited references for the reasons provided below.

### Independent Claim 1

Applicants propose amending claim 1 to include the limitation of claim 4. As a result of the proposed amendment to claim 1, Applicants propose canceling claim 4 and amending claim 5 to maintain correct claim dependency.

Applicants respectfully assert that Pellerin does not disclose that “*the side wall spacer is L-shaped*” (emphasis added), as recited in now-canceled claim 4 and amended claim 1. As a result, Applicants respectfully assert that amended claim 1 is not anticipated by Pellerin.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal*

*Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

With respect to claim 1, the Final Office Action on page 2 suggests that the combination of a first sidewall spacer (40A) and a second sidewall spacer (52) of Pellerin is equivalent to the claimed “*side wall spacer*” of claim 1. However, with respect to now-canceled claim 4, the Final Office Action on page 3 seems to suggest that just the first sidewall spacer (40A) of Pellerin is equivalent to the claimed “*side wall spacer*” of claim 1. Applicants will address both of these interpretations. However, Applicants note that if just the first sidewall spacer (40A) of Pellerin is equated to the claimed “*side wall spacer*” of claim 1, then Pellerin fails to disclose the limitation of “*characterized in that the silicide region extends along the surface of the semiconductor body and continues for more than 10 nm under the side wall spacer,*” as recited in the amended independent claim 1.

With respect to now-canceled claim 4, the Final Office Action on page 3 states that the first sidewall spacer (40A) of Pellerin is L-shaped. However, **as clearly shown in Fig. 2D of Pellerin**, the first sidewall spacer (40A) is **NOT L-shaped**. Furthermore, even the combination of the first sidewall spacer (40A) and the second sidewall spacer (52) is **not L-shaped**.

Additionally, Pellerin, in particular page 5, lines 14-18 of Pellerin, discloses that the first sidewall spacer (40A) can be defined by performing an anisotropic etching process on an approximately "L"-shaped silicon dioxide structure. That is, Pellerin discloses that the first sidewall spacer (40A) can be etched from the approximately "L"-shaped silicon dioxide structure. However, Pellerin still does not disclose that the first sidewall spacer (40A) is L-shaped. For example, as shown in Fig. 2B, Fig. 2C and Fig. 2D of Pellerin, the sidewall spacer (40A) is **not L-shaped**.

Thus, Applicants respectfully assert that Pellerin does not disclose that “*the side wall spacer is L-shaped*” (emphasis added), as recited in amended claim 1. Because Pellerin does not disclose all of the limitations of amended claim 1, Applicants respectfully assert that amended claim 1 is not anticipated by Pellerin. As such, Applicants respectfully submit that amended claim 1 is in condition for allowance.

### Dependent Claims 2, 3 and 5-12

As described above, Applicants propose amending claim 5 to maintain correct claim dependency. Claims 2, 3 and 5-12 depend from and incorporate all of the limitations of independent claim 1. Thus, Applicants respectfully assert that claims 2, 3 and 5-12 are allowable at least based on an allowable claim 1. Additionally, claim 5 is allowable for further reasons, as described below.

Claim 5 recites that “*the second portion of the L-shaped side wall spacer has a thickness, measured in a direction perpendicular to the surface of the semiconductor body, of maximally 40 nm*” (emphasis added). The Final Office Action states that “Pellerin may not explicitly teach the second portion of the L-shaped side wall spacer has a thickness, measured in a direction perpendicular to the surface of the semiconductor body, of maximally 40 nm.” (See page 4 of the Final Office Action). However, the Final Office Action further states that “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to provide certain measurement...” (See pages 4 and 5 of the Final Office Action).

In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. (See MPEP § 2144.04(IV)(A)).

Compared to an L-shaped sidewall spacer with a second portion, which extends along a surface of a semiconductor body, that has a thickness of more than 40nm, an L-shaped sidewall spacer with a second portion that has a thickness of maximally 40 nm prevents an effect of an amorphization implantation from getting too low and results in an improved operation of a semiconductor device. (See Applicants’ specification, for example, Fig. 11 and page 11, lines 6-8). Thus, a semiconductor device having the claimed relative dimensions performs differently than a device without the claimed relative dimensions. Therefore, Applicants respectfully assert that claim 5 is not obvious over Pellerin.

## CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the proposed amendments and the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,  
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